

MIGUEL MÁRQUEZ, Acting County Counsel (S.B. #184621)  
MELISSA R. KINIYALOCTS, Lead Deputy County Counsel (S.B. #215814)  
DAVID ROLLO, Deputy County Counsel (S.B. #111998)  
GREGORY J. SEBASTINELLI, Deputy County Counsel (S.B. #104884)  
OFFICE OF THE COUNTY COUNSEL  
70 West Hedding, East Wing, 9<sup>th</sup> Floor  
San Jose, California 95110-1770  
Telephone: (408) 299-5900  
Facsimile: (408) 292-7240

Attorneys for Defendants  
COUNTY OF SANTA CLARA, NORMA  
SPARKS, YAZMINA LETONA, SHARON  
BURGAN, LINDA CASTALDI, JEWELS  
RAMIREZ, VU TRAN, RIMA SINGH,  
AARON WEST, JOHN HAMILTON, ANITA  
NOBLE, JANET KAHLE, MARY RITTER,  
DAVID KEARNS, and ELISABETH  
MAILHOT, M.D.

**\*E-FILED - 2/2/10\***

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
(San Jose Division)

TRACY WATSON et al.,	)	No. C06-4029 RMW
Plaintiffs,	)	
v.	)	<b>STIPULATION AND ORDER</b>
COUNTY OF SANTA CLARA et al.,	)	<b>TO MODIFY SCHEDULING ORDER;</b>
Defendants.	)	<b>DECLARATION OF MELISSA</b>
	)	<b>KINIYALOCTS IN SUPPORT THEROF</b>

The parties in the above-captioned action submit the following stipulation and order to modify the current scheduling order as follows:

	<u>Current Scheduling Order</u>	<u>Proposed New Date</u>
Expert Disclosure	February 8, 2010	May 10, 2010
Disclosure of rebuttal experts	March 1, 2010	June 7, 2010
Close of Expert discovery	March 26, 2010	July 2, 2010
Pretrial Conference	April 22, 2010	August 5, 2010
Trial	May 10, 2010	August 23, 2010

1 This Stipulation and Proposed Order is accompanied by the Declaration of Melissa  
2 Kinyalocets attached hereto.

3 I hereby attest that I have on file all holograph signatures for any signatures indicated by a  
4 “conformed” signature (/S/) within this efiled document.

5 IT IS SO STIPULATED.

6 Dated: January 8, 2010

By: /S/  
JACQUELYN K. WILSON

7  
8 Attorney for Evergreen School District  
Defendants

9  
10 Dated: January 8, 2010

By: /S/  
SHANNON SMYTH-MENDOZA

11 Attorney for City of San Jose Defendants

12  
13  
14 Dated: January 8, 2010

By: /S/  
PETER JOHNSON

15 Attorney for Plaintiffs

16  
17  
18 MIGUEL MÁRQUEZ  
Acting County Counsel

19  
20 Dated: January 8, 2010

By: /S/  
MELISSA R. KINIYALOCETS  
Lead Deputy County Counsel

21 Attorneys for County Defendants

22  
23  
24 **DECLARATION OF MELISSA KINIYALOCETS IN SUPPORT OF STIPULATION**  
25 **AND PROPOSED ORDER TO MODIFY SCHEDULING ORDER**

26 I, Melissa Kinyalocets, declare as follows:

27 1. I am employed as a Lead Deputy County Counsel for the County of Santa Clara and  
28 am duly licensed to practice law before this Court and all California courts. I am one of the

1 attorneys of record for the County of Santa Clara Defendants.

2 2. This request for an order to modify the scheduling order is made jointly pursuant to  
3 stipulation. Counsel for all parties have met and conferred regarding the proposed expert  
4 discovery dates and trial date.

5 3. On December 4, 2009, Defendants' nine motions for summary judgment were heard.  
6 The motions, which were filed by the County of Santa Clara, Evergreen School District, and  
7 City of San Jose Defendants, remain under submission.

8 4. My co-counsel, Deputy County Counsel David Rollo, is scheduled to have surgery  
9 on February 18, 2010. He anticipates being off work following the procedure for the remainder  
10 of February and most likely the first two to three weeks in March. Thus, Mr. Rollo will not be  
11 in a position to assist with expert discovery in February and March 2010.

12 5. The parties agree that expert discovery and trial preparation could be substantially  
13 impacted by the rulings on the pending motions for summary judgment. Defendants are public  
14 entities and their employees. As such, prior to incurring substantial costs and fees associated  
15 with expert discovery and trial preparation, the parties agree to postpone the expert discovery  
16 deadlines and trial date to allow additional time for rulings on the pending motions.

17 6. Further, I have been informed by counsel for the Evergreen School District  
18 Defendants that these defendants are off work during the summer months. As such, the  
19 proposed August 23, 2010 trial date would accommodate their summer vacation schedules.

20 7. The parties have previously requested modifications to the scheduling order on  
21 January 14, 2008, May 2, 2008, September 8, 2008, and January 15, 2009. Additionally, on  
22 June 11, 2009 the Court entered a Modified Scheduling Order after a Further Case Management  
23 Conference.

24 I declare under penalty of perjury under the laws of the State of California that the  
25 foregoing is true and correct. Executed this 8<sup>th</sup> day of January, 2010 at San Jose, California.

26  
27 /S/  
28 MELISSA KINIYALOCKS

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**ORDER**

The Court has considered the stipulation to modify the scheduling order and makes the following order pursuant to the stipulation:

Expert Disclosure	May 10, 2010
Disclosure of rebuttal experts	June 7, 2010
Close of Expert discovery	July 2, 2010
Pretrial Conference	August 5, 2010, 2:00 p.m.
Trial	August 23, 2010, 1:00 p.m.

IT IS SO ORDERED.

Dated: 2/2/10

  
HONORABLE RONALD M. WHYTE  
United States District Court Judge

236432.wpd